



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0166]

Parts and Accessories Necessary for Safe Operation; Grant of Temporary Exemption for Con-way Freight, TK Holdings, Inc., and Iteris, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant an exemption to enable Con-way Freight (Con-way), TK Holdings, Inc. (Takata), and Iteris, Inc. (Iteris) to mount lane departure warning system sensors lower in the windshield of a commercial motor vehicle (CMV) than is currently permitted by the Agency's regulations. The lane departure warning system alerts drivers who unintentionally drift out of their lane of travel, thus promoting improved safety performance.

DATES: This exemption is effective from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through [November 18, 2013].

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366- 0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the prohibition on obstructions to the driver's field of view requirements in 49 CFR

393.60(e) for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption,” (49 CFR 381.305(a)).

Applications for Exemptions

On November 11, 2009, Con-way applied for an exemption from 49 CFR 393.60(e)(1) to allow it to install lane departure warning system sensors on 1,272 of its newly purchased power units. Takata and Iteris submitted nearly identical exemption applications for their lane departure warning system sensors on December 15, 2009 and on February 25, 2010, respectively. On June 14, 2010, FMCSA published a notice of these applications, and asked for public comment (75 FR 33666).

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver’s field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (collectively, devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver’s sight lines to the road and highway signs and signals.

Con-way, Takata, and Iteris state that over the last several years, truck manufacturers have increased the windshield area to maximize driver visibility. As a result, manufacturers have voluntarily installed larger windshield wipers on these windshields that increase the swept area beyond that which is minimally required by Federal Motor Vehicle Safety Standard (FMVSS) No. 104, “Windshield wiping and washing systems.” FMVSS No. 104 establishes the requirements applicable to vehicle

and equipment manufacturers for windshield wiper system coverage for passenger cars, multi-purpose passenger vehicles, trucks, and buses.

Con-way, Takata, and Iteris provided diagrams and photos showing the dimensions of the lane departure sensors and their mounting locations on vehicle windshields. Specifically, the lane departure sensor device itself measures 2 inches by 3.5 inches and is mounted within the top 2 inches of the windshield wiper sweep. The lane departure system requires the forward lens of the sensor to be in the swept area of the windshield for a clear view in inclement weather.

Con-way, Takata, and Iteris cited the findings of a report published by FMCSA's Office of Analysis, Research and Technology titled "Benefit-Cost Analyses of Onboard Safety Systems," which summarizes the projected safety benefits for various CMV onboard safety technologies, including lane departure warning systems. Using projected efficacy rates ranging from 23 percent to 53 percent, the report estimated that, based on industry-wide use, lane departure warning systems have the potential to eliminate approximately 1,609 – 2,463 single-vehicle roadway departure crashes, 627-1,307 single-vehicle roadway departure rollovers, 1,111 – 2,223 same-direction lane departure sideswipes, 997 – 1,992 opposite-direction lane departure sideswipes, and 59 – 118 opposite-direction lane departure head-on collisions. Con-way, Takata, and Iteris each stated that without the exemption, they will be unable to (1) implement the lane departure warning system, and (2) realize the potential safety benefits that can be expected with the utilization of this technology as estimated in the FMCSA report described above.

Comments

In response to its notice requesting public comment, the Agency received one comment, from the American Trucking Associations (ATA). The ATA supports the use of lane departure warning systems and identified no specific objection to the exemption applications. The ATA stated that the devices present relatively minor visual obstruction when placed near the upper edge of the windshield wiper sweep, and should not adversely impact the driver's ability to clearly see out of the windshield.

FMCSA Decision

The FMCSA has evaluated the Con-way, Takata, and Iteris exemption applications. The Agency believes that granting the temporary exemptions to allow the placement of lane departure warning system sensors lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the lane departure warning system sensors would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of lane departure warning systems by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency actions permitting the similar

placement of video event recorders on CMVs, within the swept area of the windshield wipers. FMCSA has granted temporary exemptions to Greyhound Lines, Inc. and to DriveCam, Inc. regarding the use of the video event recorders to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness, (2) enhanced monitoring of passenger behavior on CMVs in passenger service, and (3) enhanced collision review and analysis. Both of these exemptions have been renewed for a second 2-year period, as FMCSA is not aware of any evidence showing that the installation of the devices in the upper area of the windshield has resulted in any degradation in safety. Further, FMCSA continues to believe that the potential safety gains from the use of video event recorders to improve driver behavior will improve the overall level of safety to the motoring public. The Agency believes the same is true regarding the use of lane departure warning systems.

Terms and Conditions for the Exemption

The Agency hereby grants the exemptions for a two-year period, beginning [INSERT DATE OF PUBLICATION in the FEDERAL REGISTER] and ending [INSERT DATE TWO YEARS FROM DATE OF PUBLICATION in the FEDERAL REGISTER]. During the temporary exemption period, Con-way and motor carriers using the Takata and Iteris lane departure warning systems must ensure that the sensors are mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles

fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that Con-way commercial motor vehicles using lane departure warning systems or commercial motor vehicles using lane departure warning systems manufactured by Takata and Iteris are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemptions granted to Con-way, Takata, and Iteris.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a

person operating under the exemption.

Issued on: November 8, 2011

Anne S. Ferro

Administrator

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